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| Stephan A. Pendorf PENDORF & CUTLIFF 5111 Memorial Highway Tampa, FL 33634-7356 | | | | |
| EXAMINER KEYS, ROSALYND ANN | | | | |
| ART UNIT 1621 | | PAPER NUMBER | | |

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,178

Applicant(s)

SURBURG ET AL.

Examiner

Rosalynd Keys

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment and remarks filed May 8, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 17-23 and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 17-28 are pending.

Claims 17-23 and 25-28 are rejected.

Claims 1-16 are cancelled.

Claim 24 is allowed.

Priority

2. The status of Application No. 09/988,860 is now included in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 22 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure does not provide support for the newly added limitation "smokeless". Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977). In the instant case there is no positive recitation of a smokeless tobacco.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 17-21, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Jarboe et al. (US 3,128,772).

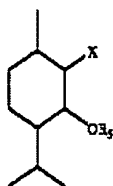
Jarboe et al. teach flavoring additives for tobacco products, which impart a cooling sensation to the smoker when the tobacco is smoked (see entire disclosure, in particular column 1, lines 25-30). The additives are menthyl ethers (see column 1, line 40 to column 5, line 55). The menthyl ether content is between 0.01 to 1.0% by weight of the smoking tobacco product (see column 5, lines 59-62). The tobacco product of Jarboe et al. is disclosed as imparting a cooling sensation to the smoker when the tobacco product is smoked (see column 1, lines 25-28). During the act of smoking the smoke usually travels through the pharyngeal cavity as well as the nasal cavity. Thus, one having ordinary skill in the art would reasonably conclude that these areas would have the cooling sensation imparted to them during the normal use of the tobacco product of Jarboe et al. Thus, Jarboe et al inherently teach the instant invention.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 17, 18, 20-22 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanke (US 6,231,900 B1).

Hanke teaches a confectionary product and preparation comprising physiological cooling

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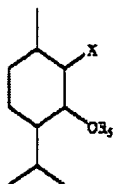


agents having the claimed formula, , wherein X is defined as being hydrogen or hydroxyl and R₅ is defined as being an *optionally* (emphasis added) hydroxyl substituted aliphatic radical containing up to 25 carbon atoms, preferably up to 5 carbon atoms (see column 4, lines 1-18). This corresponds to the instant compound having the claimed formula wherein R¹ is an alkyl group having 1 to 4 carbon atoms, R³ is a monocyclic saturated carbon system having 6 carbon atoms that is substituted with alkyl groups having 1 to 4 carbon atoms and x is 0 (see entire disclosure, in particular column 1, lines 10-30; column 2, lines 4-6; column 2, line 26 to column 3, line 15; column 4, lines 1-24; column 7, lines 41-45 and examples 1 and 2). The confectionary product is disclosed as being in various forms including hard and soft candies, chewing gum and pastilles (see column 2, lines 32-35). Thus, the limitation that the preparation be ingested as a solid is taught. The cooling agent is present in an amount from about 0.01 to about 15% (see column 5, lines 41-45). The products are disclosed as having good throat soothing properties (see column 1, lines 5-9). The products disclosed by Hanke are administered in the same manner and amounts as the rhinologically active substances of the instant invention. Thus, Hanke inherently teaches the claimed method, especially since Hanke already recognized that his menthane ethers are cooling agents.

8. Claims 17, 18, 21-23 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hughes (US 6,294,154 B1).

Hughes teaches oral compositions comprising physiological cooling

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agents having the claimed formula, , wherein X is defined as being hydrogen or hydroxyl and R₅ is defined as being an *optionally* (emphasis added) hydroxyl substituted aliphatic radical containing up to 25 carbon atoms, preferably up to 5 carbon atoms (see column 4, lines 1-18). This corresponds to the instant compound having the claimed formula wherein R¹ is an alkyl group having 1 to 4 carbon atoms, R³ is a monocyclic saturated carbon system having 6 carbon atoms that is substituted with alkyl groups having 1 to 4 carbon atoms and x is 0 (see entire disclosure, in particular column 3, line 66 to column 4, line 39). The compositions are disclosed as being in various forms including a toothpaste, liquid dentifrice, mouthwash, denture cleanser, chewing gum or candy (see column 2, lines 25-30). Thus, the limitation that the preparation be ingested as a solid or liquid is taught. The products disclosed by Hughes are administered in the same manner as the rhinologically active substances of the instant invention. Thus, Hughes inherently teaches the claimed method, especially since Hughes already recognized that his menthane ethers are cooling agents.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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11. Claims 17, 19, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanke (US 6,2310,900 B1).

Hanke disclose the invention as described above but fail to specifically disclose the compounds of claims 19, 26 and 27. However, although not explicitly taught the menthyl ether compounds of the instant claims are clearly suggested by Hanke, since R₅ is disclosed as preferably containing up to 5 carbon atoms (see column 4, lines 4-18).

12. Claims 17, 19, 20, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (US 6,294,154 B1).

Hughes disclose the invention as described above but fail to specifically disclose the compounds of claims 19, 26 and 27. However, although not explicitly taught the menthyl ether compounds of the instant claims are clearly suggested by Hughes, since R₅ is disclosed as preferably containing up to 5 carbon atoms (see column 4, lines 4-18).

13. Claims 17, 18, 20-22, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (US 3,993,604).

Thomas et al. teach alicyclic compounds having the claimed formula, wherein R¹ is as claimed, R² is hydrogen, R³ is an alkyl or alkenyl substituted cyclohexyl and x is 1 (see column 1, lines 6-45; column 3, lines 15-41; and examples 6 and 7). The claimed method is inherently taught since the compounds of Thomas et al. when digested in the foodstuffs disclosed by Thomas et al. would necessarily perform the claimed method. The alicyclic compounds of Thomas et al. are ingested as both liquids and solids (see column 3, lines 36-54).

The alicyclic compounds of Thomas et al. differ from the claimed compounds in that R² is hydrogen instead of methyl as claimed.

One having ordinary skill in the art at the time the invention was made would have found the instant invention obvious over the teachings of Thomas et al. since, it is well established that

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the substitution of methyl for hydrogen on a known compound is not a patentable modification absent unexpected or unobvious results. *In re Lincoln*, 126 USPQ 477, 53 USPQ 40 (CCPA 1942); *In re Druey*, 319 F.2d 237, 138 USPQ 39 (CCPA 1963); *In re Lohr*, 317 F.2d 388, 137 USPQ 548 (CCPA 1963); *In re Hoehsema*, 399 F.2d 269, 158 USPQ 598 (CCPA 1968); *In re Wood*, 582 F.2d 638, 199 USPQ 137 (CCPA 1978); *In re Hoke*, 560 F.2d 436, 195 USPQ 148 (CCPA 1977); *Ex parte Fauque*, 121 USPQ 425 (POBA 1954); *Ex parte Henkel*, 130 USPQ 474, (POBA 1960).

Thomas et al. further differ from the instant invention in that Thomas et al. fail to teach the use of the compound in amounts less than 0.05%.

One having ordinary skill in the art at the time the invention was made would have found the instant invention obvious over the teachings of Thomas et al. since, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration is critical. "Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955).

Allowable Subject Matter

14. Claim 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendments filed May 8, 2006

Specification

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15. The objection to the abstract is withdrawn.
16. The title of the invention is now descriptive.
17. The objection to the disclosure is withdrawn.

Claim Rejections - 35 USC § 112

18. The rejection of claims 20, 23 and 24 under 35 U.S.C. 112, second paragraph, is withdrawn.

Claim Rejections - 35 USC § 102

19. The rejection of claim 22 under 35 U.S.C. 102(b) as being anticipated by Jarboe et al. (US 3,128,772) is withdrawn, since the claims now include the requirement that the tobacco be smokeless.
20. The rejection of claims 17, 18, and 20-23 under 35 U.S.C. 102(b) as being anticipated by Garlick, Jr. et al. (US 5,695,746) or Pensak et al. (US 3,947,570A) is withdrawn, since the claims now limit R³ to a monocyclic saturated carbon system having 5,6,7 or 8 carbon atoms as claimed and each of these references teach anethole, which is a compound wherein R³ is an aromatic carbon system having 6 carbon atoms.

Response to Arguments

Rejection of claims 17-21, 26, 27 under 35 U.S.C. 102(b) as being anticipated by Jarboe et al. (US 3,128,772)

21. Applicant's arguments filed May 8, 2006 have been fully considered but they are not persuasive. According to Applicants:

Everything disclosed in the claims and specification of Jarboe et al. pertains to the delivery of compounds via smoking. The amended claimed invention requires that they have sufficient activity at

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approximately body temperature or lower to be delivered to the pharyngeal cavity and the nasal cavity from an ingested liquid or solid.

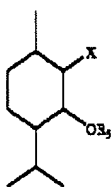
This argument is not persuasive because claims 17-21 and new claims 26 and 27 have no requirement with regard to body temperature nor is there a requirement that the compounds be ingested as a liquid or solid. The claims simply require administration to a subject in need thereof an effective amount of a preparation comprising the claimed rhinologically active substance to create a clearing feeling in a pharyngeal cavity and a nasal cavity. The Examiner believes that Jarboe et al. teach these limitations (see rejection above). Thus, the rejection of claims 17-21 is maintained and claims 26 and 27 are rejected for the reasons given in the rejection above.

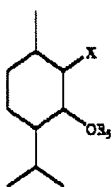
Rejection of claims 17, 18, 20-22 and 28 under 35 U.S.C. 102(e) as being anticipated by Hanke (US 6,231,900 B1)

22. Applicants' arguments filed May 8, 2006 have been fully considered but they are not persuasive. According to Applicants:

Hanke does not teach the claimed compounds of the present invention. The only ether structure in Hanke is vaguely defined.

The Examiner disagrees. Hanke teaches a confectionary product and preparation comprising physiological cooling



agents having the claimed formula, , wherein X is defined as being hydrogen or hydroxyl and R₅ is defined as being an *optionally* (emphasis added) hydroxyl substituted aliphatic radical containing up to 25 carbon atoms, preferably up to 5 carbon atoms (see column 4, lines 1-18). X is defined as being hydrogen or hydroxyl and R₅ is defined as being an

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optionally (emphasis added) hydroxyl substituted aliphatic radical containing up to 25 carbon atoms, preferably up to 5 carbon atoms (see column 4, lines 1-18). The Examiner believes that based upon this limited generic formula the ordinary skilled artisan would be able to at once envisage the compounds of the instant invention. It has been held that when the compound is not specifically named, but instead it is necessary to select portions of teachings within a reference and combine them, e.g., select various substituents from a list of alternatives given for placement at specific sites on a generic chemical formula to arrive at a specific composition, anticipation can only be found if the classes of substituents are sufficiently limited or well delineated. *Ex parte A*, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990). If one of ordinary skill in the art is able to "at once envisage" the specific compound within the generic chemical formula, the compound is anticipated. The Examiner believes that the ordinary skilled artisan would be able to at once envisage a menthane ether of Hanke wherein X is hydrogen and R₅ is up to 5 carbon atoms, i.e., methyl, ethyl, propyl, butyl or amyl. This limited teaching of Hanke meets all the limitations of the instant rhinologically active substances. Thus, Hanke anticipates the instant claims.

According to Applicants:

Hanke does not teach the clearing feeling in the nasal cavity, disclosing only a cooling effect in the throat and mentions nothing about any sensation in the nasal cavity where the compositions of the present invention produced a dramatic effect. This is consistent with the lack of volatility one of ordinary skill in chemistry would anticipate for the ethers and all other compounds disclosed by Hanke to give the cooling sensation to a sore throat. Hence, Hanke does not anticipate the present invention as it does not teach the rhinologically active substances and does not teach the clearing feeling in the nasal cavity.

The Examiner disagrees. Hanke teaches compounds having the claimed formula and administers said compounds by the same route and with the same amounts. Thus, Hanke inherently teaches the claimed method. Under the principles of inherency, if a prior art device,

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in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). Further a property need not be described by the prior art in order to anticipate the instant invention. See *Toro Co. v. Deere & Co.*, 355 F.3d 1313, 1320, 69 USPQ2d 1584, 1590 (Fed. Cir. 2004), wherein it is stated that ("[T]he fact that a characteristic is a necessary feature or result of a prior-art embodiment (that is itself sufficiently described and enabled) is enough for inherent anticipation, even if that fact was unknown at the time of the prior invention."). In the instant case, the Examiner believes that when the confectionary product of Hanke is sucked or chewed (its normal means of use) it would impart the cooling effect to the pharyngeal and nasal cavities. This is especially true, since Hanke administer their products by the same route as the instant rhinologically active agents (see paragraph 00042 of the instant specification). For the above reasons the rejection of claims 17, 18, and 20-22 are maintained. New claim 28 is also unpatentable for the reasons given in the rejection above.

The Rejection of claims 17 and 19 under 35 U.S.C. 103(a) as being unpatentable over Hanke (US 6,231,900 B1)

23. Applicant's arguments filed May 8, 2006 have been fully considered but they are not persuasive. According to Applicants:

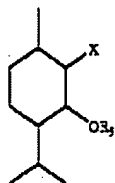
The compounds of amended claim 19 all permit a clearing feeling in the nasal cavity, an effect that is not taught by Hanke. Furthermore, not only are the compounds of claim 19 not taught by Hanke, the compounds of the formula of claim 17 are not disclosed. As Hanke only teaches ethers that have hydroxyl groups to give a cooling sensation to the throat, it does not suggest ethers where the hydroxyl

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groups are absent and provides a clearing feeling to the nasal cavity as well as the pharyngeal cavity.

Hence, Hanke does not suggest the ethers of the amended claims.

The Examiner disagrees. Hanke teaches a confectionary product and preparation comprising physiological cooling



agents having the claimed formula, , wherein X is defined as being hydrogen or hydroxyl and R₅ is defined as being an *optionally* (emphasis added) hydroxyl substituted aliphatic radical containing up to 25 carbon atoms, preferably up to 5 carbon atoms (see column 4, lines 1-18). Since it is taught that the hydroxyl function is an optional substituent, Hanke teaches an aliphatic radical that does not include hydroxyl groups. With regard to providing a clearing feeling to the nasal cavity and pharyngeal cavity, the Examiner believes that this property is inherent to the confectionary product of Hanke, since it administered by the same route as the instant rhinologically active agents (see column 2, lines 25-35 of Hanke and paragraph 00042 of the instant invention) and it is administered in the same amounts (see column 5, lines 41-45 of Hanke and paragraph 00043 of the instant invention). For the above reasons the rejection of claims 17 and 19 is maintained.

Rejection of claims 17, 18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (US 3,993,604)

24. Applicant's arguments filed May 8, 2006 have been fully considered but they are not persuasive. According to Applicants:

The presence of a methyl or ethyl group in the present invention gives different unobvious results with respect to flavor and odor that are not suggested by Thomas.

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This argument is not persuasive because it based upon objective evidence that is not supported by an appropriate affidavit or declaration. See MPEP 716.01(c) wherein it states "Objective evidence which must be factually supported by an appropriate affidavit or declaration to be of probative value includes evidence of unexpected results, commercial success, solution of a long-felt need, inoperability of the prior art, invention before the date of the reference, and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant. See, for example, *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984) ("It is well settled that unexpected results must be established by factual evidence." "[A]ppellants have not presented any experimental data showing that prior heat-shrinkable articles split. Due to the absence of tests comparing appellant's heat shrinkable articles with those of the closest prior art, we conclude that appellant's assertions of unexpected results constitute mere argument."). See also *In re Lindner*, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972); *Ex parte George*, 21 USPQ2d 1058 (Bd. Pat. App. & Inter. 1991)."

According to Applicants:

Thomas reports significant testing on his compounds yet never noted the clearing feeling that is a very dramatic characteristic of the compounds with methyl and ethyl substituents for R2 of the present invention. As the rhinological properties of odor and flavor in the present invention are disclosed to be significantly different from those properties disclosed in Thomas and since Thomas does not teach or suggest providing a clearing feeling in spite of a significant amount of testing it is logically inconsistent to conclude that the clearing feeling imparted by the compounds of the present invention are inherent to the compounds of Thomas. Hence, Thomas does not teach or suggest the claimed method and the present invention is unobvious.

This argument is not persuasive because a property need not be described by the prior art in order to anticipate the instant invention. See *Toro Co. v. Deere & Co.*, 355 F.3d 1313, 1320, 69 USPQ2d 1584, 1590 (Fed. Cir. 2004), wherein it is stated that ("[T]he fact that a characteristic is a necessary feature or result of a prior-art embodiment (that is itself sufficiently described and enabled) is enough for inherent anticipation, even if that fact was unknown at the

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time of the prior invention."). In the instant case, the Examiner believes that when the foodstuffs and tobacco products of Thomas et al. are used their normal mode the alicyclic compounds of Thomas et al. it would impart a cooling effect to the pharyngeal and nasal cavities, especially since the alicyclic compounds of Thomas are administered by same route and in the same amounts. For the above reasons this rejection is maintained.

Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

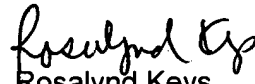
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalynd Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M-W & F 5:30-8:30 am & 1-5 pm; Th 5:30 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Rosalynd Keys
Primary Examiner
Art Unit 1621

July 14, 2006